

ORDINANCE NO. 2000-009

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA PROVIDING FOR SHORT TITLE; PROVIDING FOR PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR REGISTRATION FOR USE OF RIGHT-OF-WAY; PROVIDING FOR NATURE OF REGISTRATION; PROVIDING FOR EFFECTIVENESS OF REGISTRATION; PROVIDING FOR TRANSFER OF REGISTRATION; PROVIDING FOR EXISTING TELECOMMUNICATIONS FACILITIES IN RIGHT-OF-WAY; PROVIDING FOR SUSPENSION OF PERMITS; PROVIDING FOR APPEALS; PROVIDING FOR FEES TO COUNTY; PROVIDING FOR CONSTRUCTION IN THE RIGHT-OF-WAY; PROVIDING FOR INSURANCE AND INDEMNIFICATION; PROVIDING FOR PENALTIES FOR VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR EFFECTIVE DATE.

**WHEREAS**, section 253(c) of the Telecommunications Act leaves to State and local government the authority to manage Public Right-of-Way and to require fair and reasonable compensation from Telecommunications Providers, on a competitively neutral and nondiscriminatory basis, for the use of the Public Right-of-Way; and

**WHEREAS**, Palm Beach County desires to require fair and reasonable compensation from Telecommunications Providers for the use of the Public Right-of-Way, on a non-discriminatory basis.

**WHEREAS**, in accordance with the Congressional intent of section 253 of the Telecommunications Act and section 337.401, Florida Statutes, Palm Beach County desires to place certain reasonable rules and regulations on the use of the Public Right-of-Way by Telecommunications Providers; and

**WHEREAS**, section 337.401, Florida Statutes, provides that local governments are authorized to prescribe and enforce reasonable rules and regulations with reference to the placing and maintaining of utilities along, across, or on any road and may grant to a resident or corporation organized or licensed in Florida the use of the Right-of-Way in accordance with said rules and

1 regulations; and

2 WHEREAS, Palm Beach County is a Charter County and has all  
3 powers of local self-government; and

4 WHEREAS, pursuant to the authority set forth in section 253 of  
5 the Telecommunications Act and section 337.401, Florida Statutes,  
6 the County desires to impose reasonable rules and regulations and  
7 recover costs for the use of the Public Right-of-Way by  
8 Telecommunications Providers in a non-discriminatory manner.

9 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
10 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

11 Section 1 - Short Title

12 This Ordinance shall be known and cited in the future as the  
13 Palm Beach County Telecommunications Right-of-Way Ordinance.

14 Section 2 - Purpose

15 The purpose of this Ordinance is:

16 (a) to establish a competitively neutral policy for the use of  
17 the Public Right-of-Way for the provision of local exchange  
18 telecommunications services and toll telephone telecommunications  
19 services;

20 (b) to protect the County's investment in the Public Right-of-  
21 Way by providing for the payment of non-discriminatory fees for the  
22 use of the Right-of-Way by Telecommunications Providers and manage  
23 and receive reasonable compensation for access to and use of Public  
24 Right-of-Way by Telecommunications Providers to ensure and protect  
25 the public health, safety and welfare;

26 (c) to regulate the placement of structures and facilities in  
27 the Public Right-of-Way pursuant to section 125.01, Florida  
28 Statutes;

29 (d) to prescribe reasonable rules for such uses pursuant to  
30 sections 337.401 and 364.0361, Florida Statutes, so as to minimize  
31 disruption of services in the Public Right-of-Way, regulate the use

1 of the Public Right-of-Way by Telecommunications Providers, and  
2 regulate the construction, installation, maintenance, repair,  
3 removal and replacement of facilities in the Public Right-of-Way.

4 **Section 3 - Definitions**

5 (a) "County" shall mean Palm Beach County, Florida.

6 (b) "FCC" shall mean the Federal Communications Commission.

7 (c) "Ordinance" shall mean this Ordinance.

8 (d) "Person" includes individuals, children, firms,  
9 associations, joint ventures, partnerships, estates, trusts,  
10 business trusts, syndicates, fiduciaries, corporations, and all  
11 other groups or combinations.

12 (e) "Public Right-of-Way" shall mean a public right-of-way,  
13 public utility easement, highway, street or alley owned by Palm  
14 Beach County or for which the County holds a property interest and  
15 exercises rights of management or control, and includes the  
16 surface, the air space over the surface and the area below the  
17 surface of all public roads, streets, highways, alleys,  
18 boulevards, bridges, tunnels, public utility easements, and all  
19 public grounds.

20 (f) "Registrant" shall mean a Telecommunications Company that  
21 has Registered with the County in accordance with the provisions of  
22 this Ordinance.

23 (g) "Registration" and "Register" shall mean the process  
24 described in Section 4 whereby a Telecommunications Provider  
25 provides certain information to the County.

26 (h) "Telecommunications" shall mean the transmission between  
27 or among points specified by the user of information of the user's  
28 choosing, without change in the form or content of the information  
29 as sent and received.

30 (i) "Telecommunications Facility" or "Facility" shall mean  
31 the plant, equipment, and property, including but not limited to  
32 cables, wires, conduits, ducts, fiber optics, antennae and other



1 equipment or pathway used to transmit, receive, distribute, provide  
2 or offer Telecommunications Services.

3 (j) "Telecommunications Provider" or "Provider" shall mean  
4 any Person or entity that provides local telephone service  
5 (hereinafter referred to as a "Local Service Provider") as defined  
6 in section 203.012(3), Florida Statutes, as may be amended ("Local  
7 Service"), or any Person or entity that provides toll telephone  
8 service (hereinafter referred to as a "Toll Service Provider") as  
9 defined in section 203.012(7), Florida Statutes, as may be amended  
10 ("Toll Service").

11 (k) "Telecommunications Services" shall mean the offering of  
12 Telecommunications for a fee to the public or to such classes of  
13 users as to be effectively available directly to the public,  
14 regardless of the facilities used. Cable services and open video  
15 systems are expressly excluded from the definition of  
16 Telecommunications Services.

17 **Section 4 - Registration for Use of Right-of-Way**

18 1. Each Telecommunications Provider that desires to erect,  
19 construct, install, maintain, repair, expand, or use any  
20 Telecommunications Facilities in, under, over or across any Public  
21 Right-of-Way in the County shall first Register with the County in  
22 accordance with the terms of this Ordinance. As to Toll Service  
23 Providers, such Registration shall be accepted by the County as an  
24 ordinance of the Board of County Commissioners.

25 2. Subject to the terms and conditions contained in this  
26 Ordinance, a Registrant may erect, construct, install, repair,  
27 maintain, expand and use the Telecommunications System in, on,  
28 over, under, and across the designated Public Right-of-Way.

29 3. Registrants that are Local Service Providers shall pay a  
30 fee payable quarterly in an amount equal to 1% of the gross  
31 receipts on recurring local service revenues provided in the  
32 unincorporated area of Palm Beach County as set forth in Section 11

1 of this Ordinance.

2 4. Registrants that are Toll Service Providers shall pay a  
3 fee payable annually in an amount equal to \$500 per linear mile of  
4 any cable, fiber optic, or other pathway that makes physical use of  
5 the Public Right-of-Way as set forth in Section 11 of this  
6 Ordinance.

7 **Section 5 - Nature of Registration**

8 A Registration shall not convey title, equitable or legal,  
9 in the Public Right-of-Way. Registrants may only occupy Public  
10 Rights-of-Way for Telecommunications Facilities. Registration does  
11 not excuse a Telecommunications Provider from obtaining appropriate  
12 access or pole attachment agreements before locating its facilities  
13 on another Person's facilities. Registration does not excuse a  
14 Provider from complying with all applicable Palm Beach County  
15 ordinances, including this Ordinance.

16 **Section 6 - Registration; Effectiveness of Registration**

17 **1. Registration.**

18 Any Telecommunications Provider desiring to use the Public  
19 Right-of-Way shall file a Registration with the County which shall  
20 include the following information:

21 (a) identity of the applicant and name, address and telephone  
22 number of applicant's primary contact person in connection with the  
23 Registration;

24 (b) general description of the services to be provided (in  
25 other words, if applicant is or expects to be a Local Service  
26 Provider and/or a Toll Service Provider);

27 (c) evidence of the insurance coverage required under this  
28 Ordinance and agreement to indemnify the County as required under  
29 this Ordinance;

30 (d) a copy of Federal and/or State certification authorizing  
31 the applicant to provide Telecommunications Services.

1                   2. Registration Application Fees.

2           Each applicant for a Registration or renewal thereof shall  
3   submit a non-refundable application fee with the application;  
4   provided that the fee may be credited against fees due under  
5   Section 11(1) below.   Fee amounts shall be established by  
6   Resolution of the Board of County Commissioners but in no event  
7   shall exceed the County's costs incurred in reviewing the  
8   application.

9                   3. Review by County.

10          The County will review the information submitted by the  
11   applicant.   Such review will be by the County Engineer or his or  
12   her designee. If the applicant submits information in accordance  
13   with Section 6(1) above, the Registration shall be effective and  
14   the County shall notify the applicant of the effectiveness of  
15   Registration in writing.   If the County determines that the  
16   information has not been submitted in accordance with Section 6(1)  
17   above, the County shall notify the applicant of the non-  
18   effectiveness of Registration, and reasons for the non-  
19   effectiveness, in writing.   The County shall so reply to an  
20   applicant within thirty (30) days after receipt of registration  
21   information from the applicant.   A Registrant may cancel a  
22   Registration upon written notice to the County noticing that it  
23   will no longer provide Local Service or Toll Service in  
24   unincorporated areas of the County and will no longer need to pull  
25   permits to perform work in Public Right-of-Way.

26                  4. Nonexclusive Registration.

27          Registration with the County shall be nonexclusive.  
28   Registration does not establish any priority for the use of the  
29   Public Right-of-Way by a Registrant or any other Registrants.

30                  5. Renewal of Registration.

31          Registrants shall renew their Registration with the County  
32   every ten (10) years in accordance with the Registration



1 requirements in this Ordinance. Registrations are expressly  
2 subject to any future amendment to or replacement of this Ordinance  
3 and further subject to any additional County Ordinances, as well as  
4 any state or federal laws that may be enacted during the term of  
5 the Registration.

6 6. Permits.

7 In accordance with applicable County codes and regulations,  
8 permits shall be required of any Telecommunications Provider that  
9 desires to place, extend or locate its Facilities in any Public  
10 Right-of-Way. For Telecommunications Providers, an effective  
11 Registration shall be a condition of obtaining a permit.

12 Section 7 - Transfer of Registration

13 If the Registrant transfers or assigns its Registration  
14 incident to a sale or other transfer of the Registrant's assets,  
15 the transferee or assignee shall be obligated to comply with the  
16 terms of this Ordinance. Written notice of any such prospective  
17 transfer or assignment shall be provided to the County at least  
18 twenty (20) days in advance of the date of such transfer. In order  
19 for the transfer of Registration to be effective, such written  
20 notice must include the identity of the prospective transferee or  
21 assignee, evidence of insurance coverage and indemnification  
22 agreement as required in Section 6 of this Ordinance.

23 Section 8 - Existing Telecommunications Facilities in Right-  
24 of-Way

25 Lines or cables of Telecommunications Facilities which have  
26 been constructed or placed in the Public Right-of-Way prior to the  
27 Effective Date of this Ordinance may remain in the Right-of-Way  
28 provided the Telecommunications Provider complies with the  
29 Registration provisions of this Ordinance. Providers with existing  
30 lines and cables have one hundred and twenty (120) days from the  
31 Effective Date of this Ordinance to comply with the terms of this  
32 Ordinance, or be in violation thereof.

1                    **Section 9 - Suspension of Permits**

2                    Subject to Section 10 below, the County may suspend a permit  
3                    for work in the Public Rights-of-Way for one or more of the  
4                    following reasons:

5                    (a) violation of permit conditions, including conditions set  
6                    forth in this Ordinance or other applicable County codes or  
7                    regulations governing use of Public Right-of-Way;

8                    (b) misrepresentation or fraud by Registrant in a Registration  
9                    or permit application to the County;

10                   (c) violation of provisions in this Ordinance requiring  
11                   payment of fees to the County;

12                   (d) failure to relocate or remove Facilities as may be  
13                   lawfully required by the County; or

14                   **Section 10 - Appeals**

15                   Final, written decisions of the County Engineer suspending a  
16                   permit, denying an application for a Registration or denying an  
17                   application for renewal of a Registration are subject to appeal.  
18                   An appeal must be filed with the County Engineer within thirty (30)  
19                   days of the date of the final, written decision to be appealed.  
20                   Any appeal not timely filed as set forth above shall be waived.  
21                   The Board of County Commissioners shall appoint a Hearing Officer  
22                   to consider the appeal as set forth in Palm Beach County Unified  
23                   Land Development Code, section 4.15.

24                   **Section 11 - Compensation to County**

25                   **1. Annual Fee - Local Service Provider.**

26                   In connection with a Local Service Provider's occupancy and  
27                   use of certain Public Right-of-Way, the Local Service Provider  
28                   agrees to pay 1% of the gross receipts on recurring local service  
29                   revenues for services provided within the unincorporated area of  
30                   Palm Beach County. Included within this 1% fee are all taxes,  
31                   licenses, fees, in-kind contributions accepted pursuant to section  
32                   337.401(5), Florida Statutes, and other impositions except ad



1 valorem taxes and amounts for assessments for special benefits such  
2 as sidewalks, street pavings and other similar improvements, and  
3 occupational license taxes levied or imposed by the County upon the  
4 Telecommunications Provider.

5 2. Annual Fee - Toll Service Providers.

6 In connection with a Toll Service Provider's occupancy and use  
7 of certain Public Right-of-Way, a Toll Service Provider agrees to  
8 pay \$500 per linear mile of any cable, fiber optic, or other  
9 pathway that makes physical use of the Public Right-of-Way pursuant  
10 to section 337.401(4), Florida Statutes, as it may be amended.  
11 This fee shall not apply in any manner to Local Service Providers.

12 3. Payment.

13 The payment to County of the annual fee for use of the  
14 Right-of-Way shall be paid quarterly in single payments made not  
15 later than forty-five (45) calendar days after the end of each  
16 calendar quarter. The first quarterly payment due after  
17 Registration shall be prorated based upon the actual number of days  
18 local exchange service is provided or Facilities are placed in the  
19 Right-of-Way by Toll Service Providers as appropriate.

20 4. Registrant's Records.

21 Upon request by the County or its auditors, Registrant shall  
22 provide access to all of its records and data reasonably necessary  
23 to verify the accuracy of the fee. Upon thirty (30) calendar days  
24 written notice, the Registrant shall provide the County access to  
25 all books and records and data reasonably necessary to verify the  
26 accuracy of the fee. Any and all non-proprietary or non-  
27 confidential books and records may be copied by the County. These  
28 records shall be kept confidential to the maximum extent allowed by  
29 Chapter 119, Florida Statutes. The Registrant is responsible for  
30 obtaining or maintaining the necessary possession or control of all  
31 books and records related to the construction, operation, or repair  
32 of the Telecommunications Facility so that it can produce the

documents upon request by the County. To the extent possible, such records shall be made available to County at a location within Palm Beach County, or at local or regional offices of the Registrant in Florida.

## Section 12 - Construction in the Right-of-Way

### 1. Permits to Construct.

The Registrant may construct the Telecommunications System in the Public Right-of-Way specifically identified in permits obtained in accordance with applicable provisions of this Ordinance or other applicable County codes and regulations. The permission to use and construct in the Public Right-of-Way is only for those areas specifically identified in the permit.

### 2. Compliance With County Codes and Regulations.

Registrant agrees to comply with all applicable County codes and regulations in constructing the Telecommunications System in the Public Right-of-Way, including, but not limited to, engineering regulations, permit requirements, contractor licensing requirements, fire codes and zoning codes.

### 3. Registrant Must Obtain Applicable Permits.

Except in the case of an emergency, Registrant shall not commence any construction in the Public Right-of-Way until all applicable permits have been issued by the County or other appropriate authority. The term emergency shall mean an out-of-service condition or other condition that may affect the public's health, safety and welfare. Registrant shall provide reasonable advance notice to the County of its intent to commence construction in the Right-of-Way in the event of an emergency. Registrant acknowledges that as a condition of granting such permits, the County may impose conditions on the permits as necessary and reasonable for the construction in the Public Right-of-Way.

1                   4. Construction Standards.

2                   Registrant shall construct, maintain, install, remove and/or  
3                   repair the Telecommunications System in the Public Right-of-Way in  
4                   compliance with all applicable construction standards as  
5                   established by all local, state or federal law and in conformance  
6                   with the County codes and regulations. Registrant shall use and  
7                   exercise due caution, care, skill and expertise in performing work  
8                   in the Public Right-of-Way and shall take all reasonable steps to  
9                   safeguard work site areas.

10                  5. Installation and Construction Schedule; Inspections.

11                  In the interest of the public's health, safety and welfare,  
12                  Registrant shall cooperate with County and County's management  
13                  actions in coordinating use of the Public Right-of-Way. Upon  
14                  request of the County, a Registrant shall coordinate work under a  
15                  permit with any other construction, installation or repairs that  
16                  may be occurring or scheduled to occur in the subject Public  
17                  Right-of-Way and alter its construction schedule as necessary so as  
18                  to minimize disruptions and disturbance in the Public Right-of-Way.

19                  6. Maintenance.

20                  A Registrant shall maintain its Facilities in the Public  
21                  Right-of-Way in a safe condition.

22                  7. Restoration.

23                  A Registrant shall restore the Public Right-of-Way to its  
24                  substantially original condition after the completion of any  
25                  construction, installation, repair or maintenance in the Public  
26                  Right-of-Way.

27                  8. Notice to County. Prior to any excavation in the Public

28                  Right-of-Way for construction, installation, repair or maintenance,  
29                  the Registrant must call prior to construction activity to locate  
30                  any underground equipment in accordance with Chapter 556, Florida  
31                  Statutes, as it may be amended. A Registrant must be a member of  
32                  Sunshine State One Call of Florida, Inc. (1-800-432-4770) or any



1 successor alert and warning system to protect and locate its  
2 underground equipment.

3 9. Removal of Registrant's Cables/Lines in Right-of-Way.

4 To the extent authorized by section 337.403, Florida Statutes,  
5 County may require Registrant to remove or relocate, and Registrant  
6 shall, at County's direction, remove or relocate any cable, line,  
7 or installation in the Public Right-of-Way when the County Engineer  
8 determines that such removal or relocation is necessary to protect  
9 or preserve the public health, safety and welfare, or to protect  
10 the proper operation of County's traffic signals or traffic control  
11 devices or other County facilities. County shall provide ninety  
12 (90) days written notice to Registrant before the lines must be  
13 relocated or removed. If Registrant fails to commence and complete  
14 this removal work by the dates requested by the County in its  
15 written notice, or within thirty (30) days following the expiration  
16 or termination of this Registration, then County shall have the  
17 right to perform this removal work and charge Registrant for the  
18 costs incurred by County in performing this work. Upon payment by  
19 Registrant of the costs to County, County shall promptly return to  
20 Registrant equipment removed by County pursuant to this provision.

21 10. Restoration of Right-of-Way.

22 Upon the completion of each installation, construction,  
23 repair, maintenance, or removal in the Right-of-Way, a Registrant  
24 shall restore the Public Right-of-Way to a safe condition and to  
25 the County's standard specifications for Right-of-Way, at  
26 Registrant's expense. Registrant shall, at its own expense, repair  
27 or replace any other property disturbed or damaged on account of  
28 its activities in the Public Right-of-Way.

29 11. Interference with Other Uses in Public Right-of-Way.

30 A Registrant shall use reasonable efforts not to disturb or  
31 otherwise disrupt the operation or maintenance of any other  
32 utilities or uses in the Public Right-of-Way, including, but not

1 limited to, sewers, storm drains, gas or water mains, or other  
2 underground cables or conduits.

3 12. No Warranties or Representations by County.

4 County makes no warranties or representations regarding the  
5 fitness or suitability of County's property for the installation of  
6 Registrant's cables or conduits and any performance of work or  
7 costs incurred by Registrant or provision of services shall be at  
8 Registrant's sole risk.

9 13. Maps.

10 Within thirty (30) days of a request by the County, the  
11 Registrant shall provide the County with copies of maps on disk, in  
12 a format specified by the County Engineer, provided such format is  
13 maintained by the Registrant. Any such maintained geographic data,  
14 media and information will be provided at no cost to County. In no  
15 event shall any proprietary confidential information be required to  
16 be disclosed pursuant to this section, except that the location of  
17 Telecommunications Facilities previously placed in the Public  
18 Right-of-Way shall not be deemed proprietary confidential  
19 information.

20 14. Relocation of Facilities and Reservation of County Right.

21 (a) The County reserves the right to lay, and permit to be  
22 laid, sewer, gas, water, electric, storm drainage,  
23 telecommunications, and other pipelines or cables or conduit, and  
24 to do and to permit to be done any underground and overhead  
25 installation or improvement that may be deemed necessary or proper  
26 by the County in, across, along, over or under any Public  
27 Right-of-Way occupied by the Registrant, and to change any curb or  
28 sidewalk or the grade of any street. The County, its contractors  
29 and subcontractors shall be required to call Sunshine State One  
30 Call of Florida, Inc. (1-800-432-4770), or successor alert and  
31 warning system, prior to excavation, in accordance with Chapter  
32 556, Florida Statutes, as it may be amended, in order to avoid

1 damages to Registrant's Facilities.

2 (b) The County expressly reserves the right to change, or  
3 cause to be changed through exercise of its police powers, the  
4 grading, installation, relocation, or width of the County streets,  
5 sidewalks, bikeways, alleys, public thoroughfares, highways and  
6 public ways and places within the present limits of the County and  
7 within said limits as same may from time to time be altered, and  
8 the Registrant shall relocate, at its own expense where allowed by  
9 Section 337.403, Florida Statutes, as it may be amended, its poles  
10 wires, cables, anchors, manholes, conduits, and other Facilities  
11 and appurtenances in order to accommodate the installation,  
12 relocation, widening or changing of the grade of any public  
13 streets, sidewalks, bikeways, alleys, public thoroughfares,  
14 highways and public ways and places, including if necessary  
15 relocating such poles, wires, cables, anchors, manholes, conduits  
16 or other Facilities or appurtenances to a sufficient distance from  
17 the edge of the pavement to permit a reasonable work area for  
18 machinery and individuals engaged in installing, relocating,  
19 widening, or changing the grade of any such streets, sidewalks,  
20 bikeways, alleys, public thoroughfares, highways and public ways  
21 and places. Upon notice in writing from the County that changes in  
22 the Public Right-of-Way are required pursuant to the County's  
23 police power in such a manner as will necessitate the relocation of  
24 its Facilities in the Public Right-of-Way, the Registrant shall  
25 relocate the same at no expense to the County, where allowed by  
26 Section 337.403, Florida Statutes, as it may be amended, so as to  
27 permit the construction of such improvements when ordered. Should  
28 the Registrant fail to comply with such notice, the Facilities may  
29 be relocated by the County and the cost thereof recovered from the  
30 Registrant, where allowed by Section 337.403, Florida Statutes, as  
31 it may be amended.



1                   Section 13 - Insurance and Indemnification

2                   1. Indemnification.

3                   Registrant shall agree to protect, defend, reimburse,  
4 indemnify and hold County, its agents, employees and elected  
5 officers and each of them free and harmless at all times from and  
6 against any and all suits, actions, legal or administrative  
7 proceedings, claims, demands, damages, liabilities, interest,  
8 attorney's fees, costs and expenses of whatsoever kind or nature  
9 whether arising in any manner directly or indirectly caused,  
10 occasioned or contributed to in whole or in part, by reason of any  
11 act, omission or fault, of anyone acting under Registrant's  
12 direction or control, or on Registrant's behalf in any matter  
13 related to Registrant's use of the Right-of-Way or any property  
14 Registrant is entitled or authorized to use as a result of the  
15 Registration or other authorization. Registrant's aforesaid  
16 indemnity and hold harmless obligations, or portions or  
17 applications thereof, shall apply to the fullest extent permitted  
18 by law but in no event shall they apply to liability caused by the  
19 negligence or willful misconduct of the County, its respective  
20 agents, servants, employees or officers, nor shall the liability  
21 limits set forth in section 768.28, Florida Statutes, be waived.

22                   2. Insurance.

23                   A Registrant shall maintain in full force and effect general  
24 liability insurance acceptable to the County Risk Management  
25 Department, which specifically covers all exposures incident to the  
26 intent and responsibilities under this Ordinance. The Registrant  
27 shall add and maintain County as an additional insured on its  
28 general liability insurance. The documentation shall indicate that  
29 Palm Beach County, a political subdivision of the State of Florida,  
30 is an additional insured as its interests may appear; and shall  
31 also provide that insurance shall not be canceled, limited or  
32 non-renewed until after thirty (30) days' written notice has been

1 given to the County. Registrant may satisfy the insurance  
2 requirements and conditions of this Article under a self-insurance  
3 plan. Registrant shall agree to notify COUNTY, or indicate on the  
4 Certificate of Insurance, when self-insurance is relied upon or  
5 when a self-insured retention or deductible exceeds \$100,000. The  
6 COUNTY reserves the right, but not the obligation, to request and  
7 review a copy of Registrant's most recent annual report or  
8 audited financial statements.

9 **Section 14 - Penalties for Violation**

10 Any violation of any of the provisions of this Ordinance may  
11 be enforced as provided for in section 125.69, Florida Statutes.  
12 Each day or fraction thereof the violation continues shall be  
13 considered as a separate offense.

14 In addition, the County can pursue all other lawful action,  
15 including filing a complaint with Florida Public Service Commission  
16 advising of violation of County Ordinance, filing an injunction in  
17 Circuit Court to enforce the terms of the Ordinance or Registration  
18 or to enjoin the use of the Public Right-of-Way, filing an action  
19 in federal court to enforce payment of just compensation pursuant  
20 to the Telecommunications Act, pursuing action before the Code  
21 Enforcement Board to impose daily fines, and/or denying permits or  
22 development orders for other projects or use of the Right-of-Way by  
23 the Provider. These remedies shall be cumulative.

24 **Section 15 - Severability**

25 If any section, paragraph, sentence, clause, phrase, or word  
26 of this Ordinance is for any reason held by the Court to be  
27 unconstitutional, inoperative, or void, such holding shall not  
28 affect the remainder of this Ordinance.

29 **Section 16 - Inclusion in the Code of Laws and Ordinances**

30 The provisions of this Ordinance shall become and be made a  
31 part of the Code of Laws and Ordinances of Palm Beach County,

1 Florida. The sections of this Ordinance may be renumbered or  
2 relettered to accomplish such, and the word "ordinance" may be  
3 changed to "section", "article", or any other appropriate word.

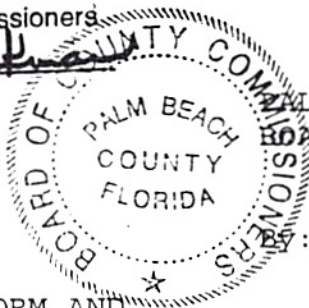
4 Section 17 - Effective Date

5 The provisions of this Ordinance shall become effective upon  
6 receipt by the Secretary of State.

7 **APPROVED AND ADOPTED** by the Board of County Commissioners of  
8 Palm Beach County, on the 15 day of February,  
9 2000.

10 DOROTHY H. WILKEN, CLERK  
11 Board of County Commissioners

By Jude C. Hickman  
DEPUTY CLERK



12 PALM BEACH COUNTY, FLORIDA, BY ITS  
13 BOARD OF COUNTY COMMISSIONERS

14 Mande Ford Lee  
15 Chair

16 APPROVED AS TO FORM AND  
17 LEGAL SUFFICIENCY

By: Leonard B.  
Assistant County Attorney

18 EFFECTIVE DATE: Filed with the Department of State on the 25<sup>th</sup>  
19 day of February, 2000, at \_\_\_\_\_ .m.

20 G:\COMMON\ATTY\WPDATA\LANDUSE\LBERGER\TELECOM\telecom8.ord

17  
STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, DOROTHY H. WILKEN, Secretary of the  
Board of County Commissioners certify this to be a  
true and correct copy of the original in my office  
on February 15, 2000  
DATED at West Palm Beach, FL on 3/16/00  
DOROTHY H. WILKEN, Clerk  
By: Diane Brown D.C.